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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual; DIANA
MILENA REED, an individual; and
COASTAL PROTECTION RANGERS,
INC., a California non-profit public
benefit corporation,

Plaintiff,

vs.

LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF THE
LUNADA BAY BOYS, including but not
limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON AKA
JALIAN JOHNSTON, MICHAEL RAE
PAPAYANS, ANGELO FERRARA,
FRANK FERRARA, CHARLIE
FERRARA; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
KEPLEY, in his representative capacity;
and DOES 1-10,

Defendants.

Case No. 2:16-cv-2129

Judge: Hon. S. James Otero
Dept: Courtroom 10C

Magistrate Judge:
Hon. Rozella A. Oliver

**EVIDENTIARY OBJECTIONS TO
PLAINTIFFS' EVIDENCE IN
SUPPORT OF PLAINTIFFS'
MOTION FOR EVIDENTIARY
SANCTIONS**

Date: October 12, 2017
Time: 10:00 a.m.
Dept: F

Complaint Filed: March 29, 2016
Trial Date: December 12, 2017

Defendants, FRANK FERRARA and CHARLIE FERRARA (hereinafter, the
"Ferraras"), and their counsel of record, Bremer Whyte Brown & O'Meara LLP
("BWBO"), hereby submit the following evidentiary objections to the Declaration of
Samantha D. Wolff filed in support of Plaintiffs', CORY SPENCER, DIANA

MILENA REED and COASTAL PROTECTION RANGERS, INC., Motion for Evidentiary Sanctions Against Defendants Charlie Ferrara, Frank Ferrara and Sang Lee ("Motion").

Objections to the Declaration of Samantha D. Wolff in Support of Plaintiffs' Motion for Evidentiary Sanctions

MATERIAL OBJECTED TO:	GROUNDS FOR OBJECTION:	RULING:
<p>1. Paragraph 2, pg.1:24-2:20. "This lawsuit garnered much attention in the press almost immediately upon filing. On March 29, 2017, the Inertia published an article online authored by Chase Scheinbaum entitled "Lunada Bay Surf Gang Issued Federal Class Action Lawsuit." This article identifies the names of the individual Defendants, including Sang Lee, Charlie Ferrara and Frank Ferrara. I downloaded this article from the Interia's website http://www.theinertia.com/surf/surfers-file-a-federal-class-action-suit-against-lunada-bay-surf-gang/. Also on March 29, 2016, The Daily Breeze published an online article authored by Ed Pilolla and Sandy Mazza entitled "Federal lawsuit claims Palos Verdes Estates surfers are a</p>	<p>1. Objection. The Ferraras object that the statements and referenced documents constitute inadmissible hearsay and double hearsay (Fed. R. Evid. 801 and 802). Declarant lacks personal knowledge of the matters set forth in the statements. (Fed. R. Evid. 602).</p>	<p>___ Sustained ___ Overruled</p>

1	criminal street gang.” I downloaded this		
2	article from the Daily Breeze’s website at		
3	http://www.dailybreeze.com/2016/03/29/f		
4	ederal-lawsuit-claims-palos-verdes-		
5	estates-surfers-are-a-criminal-street-		
6	gang/ . KTLA 5		
7	2. Paragraph 3, pg. 2:21-27. “Frank	2. Objection. The	
8	Ferrara and his brother and co-Defendant,	Ferraras object that the	
9	Angelo Ferrara, were both quoted in a	statements and	
10	Daily Breeze article related to the lawsuit,	referenced document	
11	authored by Megan Barnes, “Alleged	constitute inadmissible	
12	Lunada Bay Boy named in lawsuit says	hearsay and double	
13	surf gang doesn’t exist,” published on	hearsay (Fed. R. Evid.	
14	April 7, 2016. I downloaded this article	801 and 802).	
15	from the Daily Breeze’s website at	Declarant lacks	
16	http://www.dailybreeze.com/lifestyle/201	personal knowledge of	
17	60407/alleged-lunada-bay-boy-named-in-	the matters set forth in	
18	lawsuit-says-surf-gang-doesnt-	the statements. (Fed. R.	
19	exist&template=printart and a true and	Evid. 602).	
20	correct copy of this article is also attached		
21	as Exhibit 1.”		
22	3. Paragraph 5, pg. 3:11-22. “The day	3. Objection. The	
23	after the lawsuit was filed, Charlie Mowat	Ferraras object that the	
24	alerted nine others via text, including	statements constitute	
25	Defendant Alan Johnston, stating that it	inadmissible hearsay	
26	was “[p]robably that Diana bitch,” and	and double hearsay	
27	cautioned them to “[w]atch out for	(Fed. R. Evid. 801 and	
28			

1 subpoena [and] be on the ultra down- 2 low.” Charlie Mowat also sent the group 3 a link to a newspaper article about the 4 lawsuit. One Bay Boy responded by 5 stating that “[t]here is hopefully no 6 evidence that those named barred the 7 plaintiffs from going surfing,” while 8 Defendant Johnston responded “[s]uper 9 gay!!” and wondered “[h]ow’d they get 10 the names?” Defendant Johnston 11 produced a screen shot of this text 12 exchange, a true and correct copy of 13 which is attached as Exhibit 2. Because 14 this text message was apparently not 15 properly preserved (and was produced as 16 a cell phone screen shot image), Plaintiffs 17 are unable to determine who, besides 18 Defendant Alan Johnston, Michael Thiel, 19 and Charlie Mowat, also received this text 20 exchange.”	802). Declarant lacks personal knowledge of the matters set forth in the statements. (Fed. R. Evid. 602).	
21 4. Paragraph 7, pg. 5:25-6:6. “Defendants 22 Charlie and Frank Ferrara continued to 23 dodge service throughout the months of 24 July and August 2016. Because they had 25 successfully evaded personal service, my 26 office attempted to serve Charlie Ferrara 27 with the complaint via UPS on multiple	4. Objection. The Ferraras object that the Declarant lacks personal knowledge of the matters set forth in the statements. (Fed. R. Evid. 602).	

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1 occasions in July 2016. I am informed
 2 and believe that my co-counsel, Victor
 3 Otten, hired a process server who made
 4 10 attempts in July and early August 2016
 5 to serve Charlie Ferrara. My office also
 6 attempted to serve Frank Ferrara with the
 7 complaint via UPS and USPS certified
 8 mail/return receipt requested in July 2016.
 9 And on July 29, 2016, my office served a
 10 copy of the Notice of Initial Scheduling
 11 Conference to Frank and Charlie Ferrara
 12 via UPS, the proof of which my office
 13 filed with the Court. (See Dock. No.
 14 91.)”

15 5. Paragraph 13, pg. 8:1-13. “I spoke with
 16 Ms. Bacon again on July 3, 2017. During
 17 our telephonic discussion, Ms. Bacon
 18 stated her clients’ cell phone carrier had
 19 not been cooperative and that she would
 20 see if her clients could obtain copies of
 21 their cell phone bills online. Based on
 22 this statement, I understood that her
 23 clients had not yet attempted to do so. I
 24 also asked whether Defendants’ cell
 25 phones had been imaged. Ms. Bacon
 26 stated that she did not know how imaging
 27 is performed or how the process would

5. Objection. The
 Ferraras object that the
 statements constitute
 inadmissible hearsay
 (Fed. R. Evid. 801 and
 802).

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1 work. Based on this response, I
 2 understood that Defendants' counsel had
 3 not yet initiated the process to have their
 4 clients' phones imaged. I explained that
 5 Plaintiffs would expect Defendants to
 6 produce copies of relevant text messages,
 7 to which Ms. Bacon responded that she
 8 was not sure if that information still
 9 existed. At the conclusion of the call, Ms.
 10 Bacon said that she would look into
 11 obtaining this information and beginning
 12 the process and would provide me with an
 13 update regarding the status of any
 14 anticipated production within the week."


15 6. Paragraph 14, pg. 8:14-18. "Four days
 16 later, on July 7, 2017, I deposed
 17 Defendant Charlie Ferrara. Charlie
 18 Ferrara testified that he had not taken
 19 steps to preserve his data. He further
 20 declared that he "ha[d]n't tried very hard"
 21 to obtain his cell phone bills. A true and
 22 correct copy of relevant excerpts from
 23 Charlie Ferrara's deposition is attached as
 24 Exhibit 9."

6. Objection. The
 Ferraras object that the
 statements constitute
 inadmissible hearsay
 (Fed. R. Evid. 801 and
 802).

1 Dated: October 5, 2017

BREMER WHYTE BROWN & O'MEARA
LLP

2
3
4 By:


Alison K. Hurley
Courtney M. Serrato
Attorneys for Defendants
FRANK FERRARA and CHARLIE
FERRARA

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 20320 S.W. Birch Street, Second Floor, Newport Beach, California 92660.

On October 5, 2017, I served the within document(s) described as:

EVIDENTIARY OBJECTIONS TO PLAINTIFFS' EVIDENCE IN SUPPORT OF PLAINTIFFS' MOTION FOR EVIDENTIARY SANCTIONS

on the interested parties in this action as stated on the attached mailing list.

☒ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth on the attached mailing list. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Newport Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (BY ELECTRONIC SERVICE) Complying with Code of Civil Procedure § 1010, I caused such document(s) to be Electronically Filed and Served through the _ for the above-entitled case. Upon completion of transmission of said document(s), a filing receipt is issued to the filing party acknowledging receipt, filing and service by 's system. A copy of the filing receipt page will be maintained with the original document(s) in our office.

Executed on October 5, 2017, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kimberly Macey
(Type or print name)


(Signature)

Cory Spencer v. Lunada Bay Boys et al.,

Case No. 2:16-cv-2129-SJO

BWB&O CLIENT: Frank and Charlie Ferrara
BWB&O FILE NO.: 1178.176

SERVICE LIST

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